

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, MARCH 17, 2004**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of March 17, 2004, was called to order by Mayor Hansen at 5:33 p.m.

Present: Council Members – Beckman, Hitchcock, Howard, Land (arrived at 5:55 p.m.), and Mayor Hansen

Absent: Council Members – None

Also Present: City Manager Flynn, Interim City Attorney Schwabauer, and City Clerk Blackston

C-2 ANNOUNCEMENT OF CLOSED SESSION

- a) Actual Litigation: Government Code §54956.9(a); one case; People of the State of California; and the City of Lodi, California v. M & P Investments, et al.; United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM
- b) Actual litigation: Government Code §54956.9(a); one case; Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al., Superior Court, County of San Francisco, Case No. 323658
- c) Conference with legal counsel – initiation of litigation: Government Code §54956.9(c); two cases
- d) Actual litigation: Government Code §54956.9(a); one case, Smalley v. City of Lodi et al., San Joaquin County Superior Court, Case No. CV010730

C-3 ADJOURN TO CLOSED SESSION

At 5:33 p.m., Mayor Hansen adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 7:05 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:11 p.m., Mayor Hansen reconvened the City Council meeting, and Interim City Attorney Schwabauer disclosed the following actions:

In regard to Item C-2 (a), no reportable action was taken.

In regard to Item C-2 (b), no reportable action was taken.

In regard to Item C-2 (c), settlement direction was given.

In regard to Item C-2 (d), settlement direction was given.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of March 17, 2004, was called to order by Mayor Hansen at 7:11 p.m.

Present: Council Members – Beckman, Hitchcock, Howard, Land, and Mayor Hansen

Absent: Council Members – None

Also Present: City Manager Flynn, Interim City Attorney Schwabauer, and City Clerk Blackston

B. INVOCATION

The invocation was given by Pastor Bill Cummins, Bear Creek Community Church.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Hansen.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 Awards – None

D-2 (a) Mayor Hansen presented a proclamation to Edwin Cotton, representing the Lodi Boys and Girls Club, proclaiming the week of March 29 – April 2, 2004, as “National Boys and Girls Club Week” in the City of Lodi.

D-2 (b) Mayor Hansen presented a proclamation to Thomas Rut, representing the Northern California Regional Group of the Model A Ford Club, in celebration of the Club's 42nd Annual Roundup Days.

D-2 (c) Mayor Hansen presented a proclamation to Steve Dutra, Park Superintendent; George Bradley, Street Superintendent; and Ray Fye, Tree Operations Supervisor, for Arbor Day to be celebrated at Lodi Lake Park on April 3.

D-3 (a) Bob Bechill, President of the Lodi Area All Veterans Plaza Foundation, presented a check in the amount of \$10,000 to Mayor Hansen, accepting on behalf of the City, for the quarterly payment on loan from the City of Lodi.

D-3 (b) Jerry Dankbar, President of the Maintenance Superintendents Association North Central Valley Chapter, presented the 2003 Superintendent of the Year Award to City of Lodi Street Supervisor Dave Bender.

D-3 (c) Joseph Wood, Community Improvement Manager, made a presentation to the City Council regarding the 2004 Spring Cleanup activities.

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Mayor Pro Tempore Beckman, Land second, unanimously approved the following items hereinafter set forth except those otherwise noted:

E-1 Claims were approved in the amount of \$1,972,812.84.

E-2 The minutes of February 18, 2004 (Regular Meeting), February 24, 2004 (Shirtsleeve Session), and March 2, 2004 (Shirtsleeve Session) were approved as written.

E-3 Approved the plans and specifications and authorized advertisement for bids for Water/Wastewater Replacement Program Project No. 2.

E-4 Adopted Resolution No. 2004-38 approving the plans and specifications and authorizing advertisement for bids for the standby generator at Well 22 and authorizing the City Manager to award the contract up to \$150,000.

E-5 Adopted Resolution No. 2004-39 approving the specifications and authorizing advertisement for bids for low-voltage fuses and fuse holders for the Electric Utility Department and authorizing the City Manager to approve the purchase up to \$20,000.

E-6 Adopted Resolution No. 2004-40 authorizing the City Manager to award the purchase of a Fiber Optic Control Building to the low bidder, E-3 Systems, of Union City, in the amount of \$32,094.64.

E-7 Adopted Resolution No. 2004-41 authorizing the purchase of 35 ballistic vests from LC Action Police Supply, of San Jose, using a combination of Santa Clara County contract prices for Threat Level II vests and quoted prices for Threat Level IIIA vests totaling \$25,757.64.

- E-8 Adopted Resolution No. 2004-42 authorizing the purchase of 68 chairs from Warden's Outlet Center, of Modesto, in the amount of \$8,270, for the new Police Facility Community Room.
- E-9 Accepted the improvements under the "Katzakian Park Booster Pump Project" contract.
- E-10 Adopted Resolution No. 2004-43 accepting a portion of the Improvements in Almondwood Estates, Tract No. 3273.
- E-11 Adopted Resolution No. 2004-44 approving the final map, improvement agreement, and water rights agreement for Millsbridge II, Tract No. 3343, and directed the City Manager and City Clerk to execute the improvement agreement, water rights agreement, and final map on behalf of the City.
- E-12 Adopted Resolution No. 2004-45 authorizing the City Manager to execute Letter of Agreement No. 04-SNR-00637 between the United States of America Department of Energy Western Area Power Administration and the City of Lodi to provide Shasta Rewinds and daily excess capacity and associated energy.
- E-13 "Adopt resolution approving a lease agreement between City of Lodi and Spare Time, Inc., dba Twin Arbor Athletic Club, for use of pool at Twin Arbor Athletic Club facilities for the period of May 31, 2004 to July 25, 2004" was ***pulled from the agenda pursuant to staff's request.***
- E-14 "Adopt resolution approving the job specification and salary range for the position of Fire Administrative Captain and provide authorization to fill the position" was ***pulled from the agenda pursuant to staff's request.***
- E-15 Adopted Resolution No. 2004-46 authorizing the City Manager to appropriate a Public Benefits Program grant in the amount of \$6,178 to Fairmont Seventh-Day Adventist Church for a demand-side management project.
- E-16 Authorized advertisement for transportation services for Leadership Lodi's Agriculture, Water, and Environment Day and authorized use of buses should no alternate provider be willing to perform the service.
- E-17 Adopted Resolution No. 2004-47 reallocating \$20,962.07 of unobligated funds from various Community Development Block Grant projects to the 98-07 Elm Street Parking Lot project as detailed below:

Reallocate from:

| Project No. | Project Title | Available Funds | Account No. |
|--------------|------------------------------|--------------------|-------------|
| LOD 96-05 | Eastside Alley Lighting | \$ 5,000.00 | 452501 |
| LOD 97-1.1 | City Park Improvements ADA | \$ 1,125.67 | 453761 |
| LOD 97-1.3 | Lodi Lake Beach Feature | \$ 312.21 | 453763 |
| LOD 97-1.4 | Recreation Office Remodel | \$ 4,401.07 | 453764 |
| LOD 97-1.5 | Lodi Lake Handicapped Access | \$ 2,182.88 | 453765 |
| LOD 97-1.6 | Blakely Park Improvements | \$ 1,508.13 | 453766 |
| LOD 97-1.7 | Kofu/Armory Park Ramps | \$ 6,432.11 | 453767 |
| TOTAL | | \$20,962.07 | |

Reallocate to:

| | | | |
|-----------------------------------|------------------------|--------------------|--------|
| LOD 98-07 | Elm Street Parking Lot | \$ 1,950.00 | 454508 |
| Balance after reallocation | | \$22,912.07 | |

- E-18 Adopted Resolution No. 2004-48 of Preliminary Determination and Resolution No. 2004-49 of Intention to Annex Millsbridge II Zone 3 and Almond North Zone 4 to Lodi Consolidated Landscape Maintenance District No. 2003-1; set public hearing and deadline for receipt of ballots for May 5, 2004; and adopted Resolution No. 2004-50 authorizing the City Manager to execute a professional service agreement with Timothy J. Hachman, Attorney at Law, in the amount of \$7,000, and Resolution No. 2004-51 authorizing the City Manager to execute a professional service agreement with Thompson-Hysell Engineers, a Division of the Keith Companies, Inc., in the amount of \$8,500 for services required in support of the annexation.
- E-19 Set public hearing for April 7, 2004, to consider an appeal received from Key Advertising, Inc., regarding the Planning Commission's decision to deny the request of Key Advertising for a Use Permit to allow a 75-foot-high electronic display sign and a Variance to double the maximum allowable sign area from 480 square feet to 960 square feet to be located at 1251 South Beckman Road.

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Doug Wied, representing the Lodi Friends of the Stockton Symphony, invited everyone to the Stockton Symphony's Family Concert on March 20 at Hutchins Street Square.
- Henry Wright, responding to complaints voiced at previous Council meetings regarding Vinewood Dog Park, stated that in the three years he has been using the park he has never seen a dog loose on the street next to the houses. The trash barrel has been relocated so that it is out of surrounding residents' view. Waste bags are now available on the east end of the gate. An education effort of the City's regulations pertaining to dogs has been instituted.
- Frank Severs of the Salvation Army expressed appreciation to Wal-Mart for its donation of clothing, household items, cash grants, and support for the Salvation Army's various fundraising efforts.
- LeAnn Riley was opposed to the City's involvement in limiting large retail businesses in the community; she believed that competition was beneficial and supported the proposed Wal-Mart Supercenter.
- Sara Heberle commented that Wal-Mart contributes to community projects and encourages Americanism. She did not believe that "big-box" stores necessarily drive out small businesses.
- Alice Mathews supported the free enterprise system and favored Wal-Mart for hiring senior citizens and for its low cost and convenience to shoppers.
- Harold Mathews pointed out that the proposed Wal-Mart Supercenter would provide needed jobs and tax revenue to the City.
- Mike Higgins asked that more accountability and justification be provided at the public hearing on April 27 related to increasing the water, sewer, and refuse rates.
- Frieda Parton, Wal-Mart employee, submitted petitions signed by 4,212 people in support of the proposed Wal-Mart Supercenter. She urged Council to oppose any effort to impose size limits on large retail facilities in Lodi.
- Jim Casey stated that he has worked in construction planning and has seen what happens when an ordinance is adopted to keep a business out of an area. Wal-Mart has determined that a Supercenter could be supported by this region in sales. If Lodi does not allow it to be built in the City, it will be constructed in a nearby area. He reminded Council that expensive projects are on the City's priority list and tax revenue from the proposed Wal-Mart Supercenter could help in funding them.
- Nancy Beckman, Executive Director of the Lodi Conference and Visitors Bureau, and Pat Patrick, President and Chief Executive Officer of the Chamber of Commerce, presented the new Lodi Community & Visitors Guide Book. Mr. Patrick noted that the project was financed entirely by the advertisers.

- Barbara Krengel asked Council to consider what low prices mean in a broader sense. She read from the California Farmer, *"Companies representing brands say they cannot raise prices and hold market position with Wal-Mart and other chains. One brand said they would be de-listed by Wal-Mart if they raised prices."* Ms. Krengel noted that Wal-Mart is opening 278 new stores in 2004 and asked where it is leading industry for the future.
- June Gifford pointed out that the proposed Wal-Mart Supercenter would have 100,000 square feet of grocery space selling mostly non-taxable items. She asserted that studies in many communities have shown that Wal-Mart costs cities in services.
- Elizabeth McLaughlin acknowledged that she worked for a local grocery store and believed that the Wal-Mart Supercenter would take away jobs from the community.
- Blain Boschee stated that employees of major retail chains have a standard of living that they would like to continue. He maintained that if Wal-Mart Supercenters are allowed to proliferate in California, it will cause benefits and pay to be decreased for employees of competitors.
- Chris Podesto stated that Wal-Mart is the largest landowner of abandoned buildings in the United States per square foot. He asked what the contingency plans are for the existing Wal-Mart building if it vacates its current location and for empty buildings left by Safeway and other retail stores that may go out of business.

Mayor Hansen disclosed that he and other Council Members have had meetings with the proposed developer, representatives of the Wal-Mart Corporation, unions, and other grocery store managers. He reported that one of the issues discussed was that if Wal-Mart received approval to build a Supercenter it would be conditioned on a reputable tenant taking over its current building.

- Glenn Evans, owner of Food For Less markets, did not see the benefit to the community of a third grocery retailer at the intersection of Lower Sacramento Road and Kettleman Lane. Mr. Evans stated he would strongly consider closing his Lodi store, which employs 130 people, if the Wal-Mart Supercenter was allowed to be built in Lodi. He urged Council to weigh the long-term consequences.
- An unidentified/disguised individual commented that he did not think a Wal-Mart Supercenter would fit in the community. He expressed concern for the potential loss of other businesses.
- Christy Deschamp stated that Wal-Mart is rolling out 40 Supercenters in California at the same time so that no one has an opportunity to evaluate its impact. She recommended that Council wait for the one in Stockton to be constructed before deciding to allow a Supercenter to be built in Lodi.
- William Barrer commended Wal-Mart for its contributions to communities. He felt the store was needed for people on fixed incomes.
- Dean Meier reported that when a Wal-Mart Supercenter was constructed in Orlando, Florida, it resulted in an increase in traffic accidents, property crimes, robberies, and car thefts. He supported size limits on large retail establishments.
- Richard Salton, union representative for Local 588, noted that many people in the audience work for Albertsons, Save Mart, Food For Less, Rite Aide, Raleys, and Safeway stores. He strongly opposed Wal-Mart and its practices. He urged Council to consider the economic impact that a Wal-Mart Supercenter would have on the community and the quality jobs that would be jeopardized.
- Darryl Browman stated that he has been a property owner in Lodi for 14 years and is the developer of the existing Wal-Mart and Target stores in Lodi. His company has made a commitment to buy the existing building from Wal-Mart as a condition to move forward on plans for the Supercenter. He confirmed that the project would not move forward until there was a quality replacement in the vacated building. He recalled that the intersection of Lower Sacramento Road and Kettleman Lane was planned to be four corners of retail.

- Ann Cerney stated that she has been following planning matters in Lodi for the past 40 years. In response to the previous speaker, Ms. Cerney noted that the property was not necessarily designated to be four corners of commercial property. She recalled that when the property was annexed, due to impending changes in sales tax regulations at the time, the existing Council promised that the property would not be developed until there was another update to the City's General Plan.
- Joe Pacino felt that Lodi was already saturated with food stores and did not need a Wal-Mart Supercenter. He stated that Wal-Mart pays a low wage to employees and provides little or no benefits. He suggested that building a school at the proposed site would be more useful to the community.
- Carol Cash expressed support for a Wal-Mart Supercenter in Lodi, noting that the company contributes a great deal to communities. She intimated that opposition being expressed is mainly from union employees.
- Lori McIntosh, managing partner of Lodi Southwest Associates, reported that her partnership bought the property in question in 1992. To correct Ms. Cerney's previous comments, she reported that it was zoned as commercial retail in 1991 – prior to its annexation in 1996.
- Bryan Stamos stated that his company is a cleaning contractor for Wal-Mart. He spoke in favor of a Wal-Mart Supercenter as it would create more jobs and offer lower prices for customers. He believed that the opposition is coming from those who fear competition. He noted that many people have expressed concern that Wal-Mart would cause the demise of "mom and pop" stores; however, no one actually representing a small business has appeared to speak.
- Pam McKowlky stated that she worked for Albertsons in Lodi. She stated that Wal-Mart employees do not receive union benefits, are paid a low salary, and cannot afford to buy homes. Union employees are trying to earn a pension so that they can live comfortably in retirement.

RECESS

At 8:50 p.m., Mayor Hansen called for a recess, and the City Council meeting reconvened at 9:00 p.m.

G. PUBLIC HEARINGS

- G-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hansen called for the public hearing to consider the Planning Commission's recommendation of approval to the City Council for a Prezoning for 5952 E. Pine Street; the Prezoning is from San Joaquin County A-U, Agricultural Urban Reserve, to M-2, Heavy Industrial; the request also includes a recommendation that the City Council certify Negative Declaration ND-03-13 as adequate environmental documentation for the project and initiate annexation of the property into the City.

Community Development Director Bartlam reported that this item is to prezone and initiate annexation on about ten acres of property at the far eastern edge of Pine Street. The request is made by property owner Richard Galantine to initiate the prezoning from County Agricultural Urban reserve to M-2, Heavy Industrial, and file the application with the Local Agency Formation Commission (LAFCO) for the annexation. The Planning Commission recommends approval of the request.

Hearing Opened to the Public

- Gordon Meyers stated that he owned property directly south of the ten acres. He asked whether he would be forced to annex into the City. He expressed concern about the negative declaration and annexation of the property in the City at a reduction of prime agricultural ground. He noted that it requires mitigation measures on the impact of the environment, which he believed to be very significant in that area. Referring to the California Environmental Quality Act, Mr. Meyers stated that he felt that his presence at the public hearing exhausts all administrative requirements for further action on his part.

Mr. Bartlam replied that it was the opinion of the LAFCO Executive Officer that Mr. Meyers' property would not have to be annexed into the City in conjunction with Mr. Galantine's request.

Public Portion of Hearing Closed

In response to Council Member Hitchcock, Mr. Bartlam explained that Mr. Galantine does not have a stated intended use for the property at this time, so staff dealt with the environmental document based on the request. Staff believes that the industrial uses that are to north, northeast, and northwest would not be impacted by another industrial zoned property.

In reply to Council Member Land, Mr. Bartlam reported that conversations have taken place with Mokelumne Fire District regarding this matter. They have not expressed any concerns.

MOTION #1 / VOTE:

The City Council, on motion of Mayor Pro Tempore Beckman, Howard second, unanimously adopted Resolution No. 2004-52 entitled, "A Resolution of the Lodi City Council Certifying the Negative Declaration ND-03-13 as Adequate Environmental Documentation for the Prezone and Initiation of Annexation of Property Located at 5952 E. Pine Street, Lodi."

MOTION #2 / VOTE:

The City Council, on motion of Mayor Pro Tempore Beckman, Howard second, unanimously adopted Resolution No. 2004-53 entitled, "A Resolution of the Lodi City Council for Application to the San Joaquin County Local Agency Formation Commission in the Matter of the Galantine Annexation/Reorganization, Including the Detachment of Certain Territory within the Area Proposed for Annexation to the City of Lodi."

MOTION #3 / VOTE:

The City Council, on motion of Mayor Pro Tempore Beckman, Howard second, unanimously introduced Ordinance No. 1745 entitled, "An Ordinance of the Lodi City Council Amending the Official District Map of the City of Lodi and Thereby Prezoning the Parcel Located at 5952 East Pine Street (APN 049-090-13) from San Joaquin County A-U, Agricultural Urban Reserve, to M-2, Heavy Industrial."

- G-2 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hansen called for the public hearing to consider redesign concept for GBasin (Pixley Park) and the exchange of properties with GREM, Inc., to allow relocation of C-Basin.

MOTION / VOTE:

The City Council, on motion of Council Member Land, Beckman second, unanimously continued the public hearing to April 7, 2004, to consider redesign concept for GBasin (Pixley Park) and the exchange of properties with GREM, Inc., to allow relocation of C-Basin.

- G-3 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hansen called for the public hearing to consider the Planning Commission's recommendation of approval to the City Council to adopt a Zoning Ordinance amendment adding Chapter 17.58 regarding design standards for large retail establishments.

Mayor Hansen stated that he received approximately 150 e-mails and 60 phone calls from people expressing their opinion on this issue.

Council Member Howard disclosed that she met with the landowner, two representatives of Browman Development, two representatives from Wal-Mart, Jessica Berg with BergDavis Public Affairs, Senior Manager of Wal-Mart Community Affairs Amy Hill, as well as a number of representatives from Food for Less, Save Mart, Safeway, Apple Market, etc.

Council Member Hitchcock disclosed that she met with the landowner, two representatives from Browman Development, four representatives from various grocery stores, and two Wal-Mart representatives.

Community Development Director Bartlam stated that the question of large-scale design was brought to the Planning Commission's attention during the Lowe's project. In December 2003 the Planning Commission directed staff to bring back a set of standards that were specifically related to large-scale retail development. The Commission held a public hearing in January to review the standards. The hearing was continued to February, at which time the Commission approved the Design Standards for Large Retail Establishments as now presented to Council (filed). The standards address any retail center that has a principle building of 25,000 square feet or more. The intent is one of improving the visual quality of retail centers and attempting to "humanize" large buildings. The standards deal with specific architectural requirements, colors and materials, orientation of the building with respect to its placement on the property, its adjacent and required parking, loading, trash areas, and pedestrian and bicycle access both to and on the site. There is a standard for a central community feature that could act as a public space. The standards provide a parking cap of 5 spaces for every 1,000 square feet of retail building space, 15 per 1,000 square feet of restaurant building space, and 6 spaces for every 1,000 square feet of fitness/health club space. The standards require that no more than 50% of the parking provided be in front of the main building and that the main building have multiple entries if it fronts on more than one public street.

Mr. Bartlam noted that the Planning Commission spent most of its deliberation on whether there ought to be a limitation on maximum square footage. The Commission felt that additional discussion, separate and distinct from this recommendation, should take place and have scheduled the topic for its March 24 meeting.

In answer to questions posed by Council Member Land, Mr. Bartlam explained that pad tenants do not have to be concerned with *where* the parking stalls are, but with how many. He emphasized that the design standards are not guidelines (permissive) they are standards (requirements). As the Community Development Director, he does not have administrative flexibility to vary from a standard. The variance process is brought before the Planning Commission.

In reply to inquiries by Council Member Hitchcock, Mr. Bartlam reported that staff chose to use the City of Fort Collins, Colorado, as a basis for the design standards, because its standards were enacted in the mid-1990s and have had an opportunity to be tested. Proposed projects that the design standards would apply to include the Wal-Mart Supercenter and expansions of Raley's and Lakewood Mall. He noted that Target is also considering an expansion. Mr. Bartlam stated that he did not believe size was a design standard issue. He pointed out that several smaller buildings could be constructed side by side, which for all intents and purposes are one building in look and use, but technically many buildings. He contended that with adequate design standards, the size of the building is irrelevant.

Mayor Pro Tempore Beckman believed that the future look and economy of Lodi should be a permanent decision. If there is going to be a size limitation on large retail establishments, it should survive well into the future, and the only way for that to occur is through the ballot initiative process. He asked that the issue be placed on the April 7 City Council meeting agenda.

Hearing Opened to the Public

- George Fink asked that Council support a moratorium on applications for the issuance of permits until a ballot initiative can be voted on, so that there is not a rush of projects moving forward in an attempt to circumvent the process.

Mayor Hansen replied that if a ballot measure to limit the size of large retail establishments is brought forward, he believed Council would entertain the idea that no projects be approved until citizens have an opportunity to vote.

Council Member Howard strongly opposed delaying projects that are already underway, as she believed it to be unfair.

- Betsy Fiske submitted a petition signed by 1,644 individuals which stated, *"We, the undersigned, ask that the Lodi City Council limit the square footage of big-box retail developments. We need the City Council's leadership in preserving Lodi's special and unique quality of life."* She asked that Council place a moratorium on projects until the matter is decided.
- Treacy Elliott believed that if large retail businesses are not restricted in size, there will be many empty buildings for lease in the City. He asked that there be a moratorium on any unapproved projects over 125,000 square feet and that the citizens of Lodi be allowed to make the decision on their future.
- Kurt Roberts anticipated that the city-wide survey results would show that people in Lodi want a size limitation on large retail buildings. He hoped that Council would vote to place a measure on the ballot for the November election. He felt there were too many possible negatives for the City to rush into approval of a Wal-Mart Supercenter without extensive review.
- Brad Clark commented that he liked the small town atmosphere and safety in Lodi. He urged Council to place a measure on the November election ballot placing a size limitation on large retail. In addition, he asked Council to impose a moratorium immediately on all pending projects of 25,000 square feet and greater. He favored a 100,000 square foot size limitation, above which would require a conditional use permit.
- Quintin Williams asserted that large retail businesses cause negative traffic impacts.
- Joe Pacino stated that large retail changes the dynamics of the street use and negatively impacts traffic safety. He believed that size is a design factor and asked Council to allow citizens to vote on the matter. He mentioned that, at expense to himself and others, a telephone poll was conducted. Out of 3,300 residents called, 73% were opposed to the Wal-Mart Supercenter because there would be too many people at one intersection.
- Pat Patrick, President and Chief Executive Officer of the Lodi Chamber of Commerce, submitted a position paper (filed) on behalf of the Board of Directors and Government Relations Committee expressing unanimous support for the design standards for large retail establishments and their belief that the standards negate the need for a size limitation.

- Ann Cerney, speaking as a citizen and small business owner, believed that there is a nexus connecting the scale of design to the economic vibrancy of the local community. Small-scale businesses are important to the community. Typically, large retail is owned and operated by outside corporations with little or no local ties. The result will be an outflow of local money that is greater than the inflow of money to the community. She urged Council to regulate in a manner that retains the small city aspect of Lodi. The surrounding agricultural community of the City has invested millions of dollars to develop the grape wine grower Appalachian District, which goes hand in hand with the historic small city character of Lodi. The development of agri-tourist business promises to expand the parameters of small business in the community. She noted that money from small businesses stays in the community. The continued vitality of the economy of the local area, both urban and rural, depends on the retention of the historic character and the scale of design of the physical environment. The people who live in Lodi should be allowed to drive the development of the land surrounding the City. Speaking as a member of Citizens for Open Government, Ms. Cerney stated that the group would like 100,000 square foot limits on retail establishments with no conditional use permit. In addition, they would like the minimum number of parking spaces for commercial establishments to be the maximum, i.e. two spaces per every 1,000 square feet of building. She recalled that on two occasions the Planning Commission directed staff to come back with standards for four parking spaces per 1,000 square feet and believed that Council should take that under consideration. Citizens for Open Government does not support anything in the way of a sliding scale for parking. Twenty percent of the surface of large retail developments should be designed as permeable surface to allow the percolation of rainwater and storm water runoff to increase the water table. The group also supports a ballot initiative for size limits, with a provision that voter approval be required to change the ordinance.
- Blake Griffin, representing the owners of Westgate Shopping Center, reported that they are currently involved in plans to remodel the center. He asked that the section in the design standards requiring 50% shading by trees in five years be reconsidered and studied further. This would require trees to be planted at 15 feet on center. Trees would not be close to their full canopy in five years. He noted that the requirement is typically 50% shading in 15 years.

Mr. Bartlam replied that the standard for trees was added as a result of Planning Commission and public comment. The intent was that more mature trees be planted initially.

- Darryl Browman displayed drawings of design standards implemented on large retail buildings. He pointed out that the large tenant is the catalyst for getting other retailers. He recommended that the design standards be changed to allow for 65% of the parking to be located in front of the store, noting that customers want to park in front of the store from a safety and convenience perspective. If parking is dispersed in an illogical way, it will create difficulty in re-leasing space that becomes vacant. The requirement for two entrances increases the cost of operating the store because of theft issues and having to stock and staff additional cash registers in two locations. He believed the Community Development Director should be given some discretion to vary from the standards in instances where the intent of the design criteria is met or exceeded. Mr. Browman submitted communication outlining his concerns regarding the design standards and a parking ratio listing for various types of stores (both filed). He asked that there be some flexibility in the out-parcel development, noting that retail and restaurant leases change. For example, if a restaurant tenant vacates a building, a provision needs to be inserted allowing an owner the flexibility to replace the tenant with another type of business, without the requirement to eliminate the parking intended for the previous restaurant.

In response to Council Member Howard, Mr. Bartlam reported that the Planning Commission felt that four parking spaces for every 1,000 square feet of building space was too restrictive and would lead to parking problems in shopping centers. Mr. Bartlam expressed his opinion that a flat five spaces per 1,000 square feet blended over the entire center would allow ample parking stalls for all types of businesses.

Council Member Hitchcock suggested that language be added to the design standards informing applicants that a variance process before the Planning Commission exists.

- Jim Watt, representing Save Mart Supermarkets, described the standards relative to allowing only 50% of the parking to be in front of the building and requiring two entrances, as draconian. He contended that these requirements should apply to buildings of a much larger size than 25,000 square feet. In addition he felt that having three separate parking space regulations is confusing and would be difficult to implement. He recommended that it be changed to a flat 4.50 to 4.80 spaces per 1,000 square feet of building space. He also pointed out that language contained in section 17.58.112 will likely create disputes in interpretation.
- Tim Mattheis, Chairman of the Planning Commission, urged Council to adopt the design standards as recommended. Many hours were devoted to public comment, Commission deliberation, and staff research, and he believed the end product to be a policy that would shape the small scale sense of Lodi into the retail development that is coming forward. He felt that the size limit issue was unrelated to design.
- Christina Cross stated that she is involved in the Ag Trust that is being developed for the four regions. She felt it was important that the size limitation was not arbitrary and hoped that Council would have an informed discussion to arrive at the specific square footage number. She expressed support for allowing citizens to vote on the issue.
- Robin Knowlton supported the design standards and asked that a moratorium be instituted until a vote of the people can take place regarding size limitations.
- Dave Phillips, Planning Commissioner, asked Council to amend the design standards to include a flat 4.50 parking spaces for every 1,000 square feet of building space.

RECESS

At 12:00 a.m., Mayor Hansen called for a recess and the City Council meeting reconvened at 12:10 a.m.

G. PUBLIC HEARINGS (Continued)

G-3
(Cont'd.)

- Kathy Grant expressed concern that with so little open unpaved land Lodi is facing serious water problems. Nowhere in the design standards is the footprint of a building balanced with open space on site designed to capture rainfall. She believed the State will eventually mandate that urban stormwater be impounded on site and treated before it is discharged. She preferred that the burden of this future problem be on the designer now, not on the taxpayers later.

Public Portion of Hearing Closed

In response to Council Member Hitchcock, Mr. Bartlam reported that the Lowe's project will be incorporating on site bio-swales and pretreated storm water. The West Side Facility Plan calls for a series of storm water lagoons, which have the capability and design to retain storm water for a longer period. He did not believe the concept was ready to be included in the design standards at this time.

Council Member Hitchcock made the following recommendations regarding the design standards:

- Simplify the parking space requirements to a flat five spaces for every 1,000 square of building space;
- Add language to the design standards informing applicants that a variance process exists at the Planning Commission level, if the intent of the design standards is met or exceeded;
- Clarify section 17.58.112;
- Require a conditional use permit for any project over 125,000 square feet to be considered by the Planning Commission with a right of appeal to the City Council.

Mayor Pro Tempore Beckman was opposed to the requirements for multiple entries and limiting parking to 50% in the front of the building. Mr. Beckman stated that he would support the regulation to have 50% shading by trees in five years on the condition that there were no other restrictions on parking.

MOTION #1:

Council Member Howard made a motion to introduce the ordinance amending Lodi Municipal Code Title 17, Zoning, by adding Chapter 17.58, "Design Standards for Large Retail Establishments" as recommended, with the amendment of 17.58.112 (C) to indicate that the maximum number of off-street parking spaces shall not exceed five spaces for every 1,000 square feet of building space.

SECOND #1:

Council Member Hitchcock stated that she would second the motion if the variance language she recommended be added to the standards.

Mayor Hansen suggested that language for amendments agreed upon tonight by Council can be brought back at a future meeting for adoption.

Council Member Hitchcock seconded the motion.

DISCUSSION:

Addressing Mr. Bartlam, Mayor Hansen asked if a size limitation of 100,000 square feet were in place, whether two 100,000 square foot buildings could be constructed side by side with a breezeway in between and still be within the guidelines, to which Mr. Bartlam answered in the affirmative. Mr. Hansen noted that the Rancho San Miguel Market being built on Cherokee Lane will have a definite impact on "mom and pop" operations in the surrounding area; however, no one raised any concerns about it. Mr. Hansen pointed out that the Rancho San Miguel Market is owned by Food for Less, another "big-box" store, and he found it hypocritical that they are now opposing the Wal-Mart Supercenter on the grounds that it will jeopardize its business. He warned that establishing size limits on retail buildings will not be a temporary solution. He felt that the moratorium should be discussed in conjunction with Mayor Pro Tempore Beckman's request to consider Council placing a measure on the November ballot. He agreed with previous comments regarding the public's desire to park and walk into the front of a building, rather than a side entry.

Council Member Hitchcock **withdrew** her second as she preferred amending the design standards to include a conditional use permit requirement for any project over 125,000 square feet, to be considered by the Planning Commission with a right of appeal to the City Council.

Council Member Land seconded the motion.

VOTE #1:

The above motion **failed** by the following vote:

Ayes: Council Members – Howard and Land

Noes: Council Members – Beckman, Hitchcock, and Mayor Hansen

Absent: Council Members – None

Mayor Hansen recommended that the parking requirement be increased to 60% in front of the building. In reference to Council Member Hitchcock's suggestion for a conditional use permit requirement, he suggested that it be discussed at the next regularly scheduled meeting on April 7.

MOTION #2 / VOTE:

The City Council, on motion of Mayor Hansen, Land second, introduced Ordinance No. 1746 amending Lodi Municipal Code Title 17, Zoning, by adding Chapter 17.58, "Design Standards for Large Retail Establishments" as recommended, with 1) the amendment of 17.58.112 (C) to indicate that the maximum number of off-street parking spaces shall not exceed five spaces for every 1,000 square feet of building space, and 2) the amendment of 17.58.112 (A) to indicate that no more than 60% of the off-street parking area for the lot, tract, or area of land devoted to the large retail establishment shall be located between the front façade of the large retail establishment and the abutting streets. The motion carried by the following vote:

Ayes: Council Members – Howard, Land, and Mayor Hansen

Noes: Council Members – Beckman and Hitchcock

Absent: Council Members – None

VOTE TO CONTINUE WITH THE REMAINDER OF THE MEETING

The City Council, on motion of Council Member Hitchcock, Beckman second, unanimously voted to continue the meeting following the 11:00 p.m. hour, but to consider only Items H (Communications) and J-1 through J-2 (Ordinances). The remainder of the items will be continued to the Regular City Council meeting of April 7, 2004.

H. COMMUNICATIONS

H-1 On recommendation of the City's contract administrator, Insurance Consulting Associates, Inc. (ICA), and Human Resources staff, the City Council, on motion of Mayor Hansen, Beckman second, unanimously rejected the following claim:

a) Randall Hays, date of loss 1/23/04

H-2 Reports: Boards/Commissions/Task Forces/Committees – None

H-3 The following postings/appointments were made:

a) The City Council, on motion of Mayor Hansen, Beckman second, unanimously made the following appointments:

Lodi Arts Commission

Olympia Hostler Term to expire July 1, 2006

Parks and Recreation Commission

David Akin Term to expire December 31, 2008

H-4 Miscellaneous

a) City Clerk Blackston presented the cumulative Monthly Protocol Account Report through February 29, 2004.

I. REGULAR CALENDAR

- I-1 "Adopt resolution authorizing the City Manager to appropriate \$25,000 in Public Benefit Program funds for the Lodi Residential Swimming Pool Pump & Motor Rebate Program for City of Lodi Electric Utility customers" was ***continued to the regular meeting of April 7, due to the above vote.***
- I-2 "Updates from Mayor Larry Hansen regarding the following issues: Barger & Wolen audit of Envision Law Group's billings; status of recruitment process for new City Attorney; progress on Request for Proposals for special counsel to represent the City of Lodi in its Environmental Abatement Program litigation; and legal proceedings relative to the Environmental Abatement Program litigation" was ***continued to the regular meeting of April 7, due to the above vote.***
- I-3 "Adopt resolution awarding contract(s) for City-wide janitorial services to lowest responsive bidder(s)" was ***continued to the regular meeting of April 7, due to the above vote.***
- I-4 "Approve Special Allocation for expenses incurred for moving and storing PCE/TCE litigation files (\$17,005)" was ***continued to the regular meeting of April 7, due to the above vote.***

J. ORDINANCES

- J-1 Following reading of the title of Ordinance No. 1743 entitled, "An Ordinance of the Lodi City Council Amending Lodi Municipal Code Chapter 16.40, by Repealing Section 16.40.050 A-5 and Adding Section C Relating to Reimbursement Agreements," having been introduced at a regular meeting of the Lodi City Council held March 3, 2004, the City Council, on motion of Mayor Hansen, Beckman second, waived reading of the ordinance in full and adopted and ordered it to print by the following vote:
Ayes: Council Members – Beckman, Hitchcock, Howard, Land, and Mayor Hansen
Noes: Council Members – None
Absent: Council Members – None
Abstain: Council Members – None
- J-2 Following reading of the title of Ordinance No. 1744 entitled, "An Ordinance of the City Council of the City of Lodi Amending Title 9 – Public Peace, Morals, and Welfare, Chapter 9.08, 'Offenses Against Property,' by Repealing and Reenacting Section 9.08.150 of the Lodi Municipal Code Relating to Vehicles," having been introduced at a regular meeting of the Lodi City Council held March 3, 2004, the City Council, on motion of Mayor Pro Tempore Beckman, Hansen second, waived reading of the ordinance in full and adopted and ordered it to print by the following vote:
Ayes: Council Members – Beckman, Hitchcock, Howard, Land, and Mayor Hansen
Noes: Council Members – None
Absent: Council Members – None
Abstain: Council Members – None

K. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

None.

L. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

None.

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 1:05 a.m., Thursday, March 18, 2004.

ATTEST:

Susan J. Blackston
City Clerk